

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Jimmie Lee Penick,	:	
	:	
Plaintiff,	:	Civil Action 2:06-cv-652
	:	
v.	:	Judge Smith
	:	
Ohio Department of Rehabilitation and Correction, <i>et al.</i> ,	:	Magistrate Judge Abel
	:	
Defendant.	:	

Order

Plaintiff Jimmie Lee Penick, a prisoner at Lebanon Correctional Institution brings this action under 42 U.S.C. §1983 alleging that Defendants Ohio Department of Rehabilitation and employees of the prison failed to prevent a vicious attack on him by another inmate. This matter is before the Court on Magistrate Judge Abel's October 24, 2006 Report and Recommendation that defendant's unopposed September 14, 2006 motion to dismiss (doc. 7) be granted. No objections have been filed.

Upon *de novo* review as required by 28 U.S.C. § 636(b)(1)(B), the Court ADOPTS the Magistrate Judge's October 24, 2006 Report and Recommendation and GRANTS defendants' September 14, 2006 motion to dismiss (doc. 7). For the reasons stated in the Report and Recommendation, plaintiff has failed to demonstrate that he had exhausted prison grievance procedures as required by 42 U.S.C. §1997(a)(e) before filing suit.

/S/ George C. Smith

George C. Smith
United States District Judge